

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

In the Matter of

LAYNE, SUDIE MAE,

Debtor,

JACQUELINE SELLS HOMANN,
TRUSTEE,

Plaintiff,

v.

RALPH MONTY LAYNE
PO BOX 200
LAKEVILLE, IN 46536,

Defendant.

Case No. 10-34228

Chapter 7

Adver. Proc. No.

COMPLAINT TO AVOID AND RECOVER AN AVOIDABLE TRANSFER

Trustee, Jacqueline Sells Homann, by counsel, for her complaint against Defendant, Ralph Monty Layne, to recover a preferential transfer, states as follows:

A. JURISDICTION / VENUE

1. The court has jurisdiction over the parties and subject matter of this proceeding pursuant to 28 U.S.C. §§157(b) and 1334.
2. This action is a core proceeding pursuant to 28 U.S.C. §157(b).
3. Venue is proper pursuant to 28 U.S.C. §1409 in that this is a proceeding arising in and relating to the above-entitled case pending before this court.
4. This adversary proceeding is brought pursuant to 11 U.S.C. §§548 and 550 and Federal Rule of Bankruptcy Procedure 7001.

B. THE PARTIES

5. On August 31, 2010, the debtor, Sudie Mae Layne, filed her bankruptcy petition pursuant to Chapter 7 of the Bankruptcy Code.

6. The defendant, Ralph Monty Layne, is a resident of St. Joseph County, Indiana and the spouse of the debtor, Sudie Mae Layne.

C. CAUSE OF ACTION

7. The allegations contained in paragraphs 1 through 6 above are incorporated herein by reference as if fully set forth herein.

8. On or about May 6, 2010, prior to the petition date, the debtor, Sudie Mae Layne, made a transfer to Defendant, Ralph Monty Layne, in the amount of \$20,000.00 (the "Preferential Transfer") on account of an antecedent debt owed by the debtor, Sudie Mae Layne, before the payment was made.

9. Ralph Monty Layne is the spouse of the debtor and an insider.

10. The Preferential Transfer was a transfer of property of the debtor, Sudie Mae Layne, which the debtor, Sudie Mae Layne, made on or for the benefit of the defendant.

11. The Preferential Transfer was made while the debtor, Sudie Mae Layne, was insolvent.

12. The defendant received more than he would have received if the Preferential Transfer had not been made and the defendant received payment on his debt pursuant to the Bankruptcy Code.

13. The Preferential Transfer is a preference pursuant to §547(b) of the Bankruptcy Code and is avoidable by the Trustee pursuant to §§547 and 550 of the Bankruptcy Code.

14. The Trustee may uncover additional preferential transfers to the defendant, Ralph Layne, through discovery and reserves its right right to add any such additional preferential transfers to the allegations contained in the complaint.

WHEREFORE, Trustee, Jacqueline Sells Homann, respectfully requests that the court enter an order:

1. avoiding the Preferential Transfer pursuant to §547 of the Bankruptcy Code;
2. granting judgment in favor of the Trustee and against the defendant, Ralph Monty Layne, in the amount of the Preferential Transfer of \$20,000.00, plus interest, pursuant to the Bankruptcy Code, along with any and all additional amounts which may be discovered; and
3. granting such other and further relief as is just and proper in the premises.

Dated: June 13, 2011

/s/ Jacqueline Sells Homann
Jacqueline Sells Homann
Jones Obenchain, LLP
600 KeyBank Building
202 S. Michigan Street
Post Office Box 4577
South Bend, Indiana 46634-4577
Telephone: (574) 233-1194
Facsimile: (574) 233-8957
Email: jsitrustee@jonesobenchain.com

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June 2011, a true and correct copy of the above and foregoing Complaint to Avoid and Recover an Avoidable Transfer was served as follows:

Debra Voltz-Miller
dvoltz-miller@datacruz.com

United States Trustee
ustpreion10.so.ecf@usdoj.gov

Ralph Monty Layne
PO Box 200
Lakeville IN 46536

Sudie Mae Layne
PO Box 200
Lakeville IN 46536

/s/ Jacqueline Sells Homann
Jacqueline Sells Homann